IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE ANTONY DOMINIC

WEDNESDAY, THE 21ST FEBRUARY 2007 / 2ND PHALGUNA 1928

OP.No. 38194 of 2001(V)

PETITIONERS:

1. **P.V.DAVIS,**
   S/O.PAULOSE,
   PATHODATH HOUSE, CHIRAKKARA P.O.,
   THALAPUZHA, MANANATHAVADY,

2. **SANTHOSH K.ANTONY,**
   S/O.ANTONY,
   KAINIKKUNNEL HOUSE, CHIRKKARA P.O.,
   PUDHIYIDAM, THALAPUZHA, MANANTHAVADY,
   WYNAD DISTRICT.

3. **REGI KUMAR,**
   S/O.VASUDEVAN PILLAI,
   CHULLIYOTH HOUSE, TALAPUZHA,
   MANANTHAVADY, WAYANAD DISTRICT.

BY ADV. SRI.P.K.RAMKUMAR

RESPONDENTS:

1. **STATE OF KERALA,**
   REPRESENTED BY ITS SECRETARY,
   DEPARTMENT OF LOCAL SELF GOVT., TRIVANDRUM.

2. **THE DEPUTY DIRECTOR OF PANCHAYATH,**
   WAYANAD DISTRICT, OFFICE OF THE DEPUTY DIRECTOR
   OF PANCHAYATH, KALPETTA P.O., WAYANAD DISTRICT.

3. **THAVINHAL GRAMA PANCHAYATH,**
   REPRESENTED BY ITS SECRETARY,
   THALAPUZHA P.O., MANANTHAVADY, WAYANAD DISTRICT.

BY ADV. SRI.S.MUHAMMED HANEEF for R3
SMT.RASHMI K. for R3
BY GOVERNMENT PLEADER SRI. SANDESH RAJ for R1 & R2

THIS ORIGINAL PETITION HAVING BEEN FINALLY HEARD ON 21/02/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

O.P.NO.38194/2001 V

ORDER ON C.M.P.NO.62594/2001 IN O.P.NO.38194/2001 V

DISMISSED

21/02/2007 **SD/- ANTONY DOMINIC, JUDGE**

APPENDIX

PETITIONER'S EXHIBITS:

EXT.P1: **COPY OF THE REPRESENTATION SUBMITTED BY THE PETITIONERS TO THE 2ND RESPONDENT ON 6/08/2001.**

EXT.P2: **COPY OF THE LAWYER NOTICE OF THE 1ST PETITIONER AND ITS POSTAL RECEIPT SENT BY 2ND RESPONDENT, DTD. 8/09/2001.**

EXT.P3: **COPY OF THE LAWYER NOTICE OF THE 2ND PETITIONER AND ITS POSTAL RECEIPT SENT BY 2ND RESPONDENT DTD.8/09/2001.**

EXT.P4: **COPY OF THE LAWYER NOTICE OF THE 3RD PETITIONER AND ITS POSTAL RECEIPT SENT BY 2ND RESPONDENT, DTD. 8/09/2001.**

EXT.P5: **COPY OF THE REGISTERED REPLY NOTICE SENT TO THE 1ST PETITIONER NOTICE DTD. 20/09/2001.**

EXT.P6: **COPY OF THE REGISTERED REPLY NOTICE SENT TO THE 2ND PETITIONERS NOTICE DTD. 20/09/2001.**

EXT.P7: **COPY OF THE REGISTERED REPLY NOTICE SENT TO THE 3RD PETITIONERS NOTICE DTD. 20/09/2001.**

EXT.P8: **COPY OF THE RESOLUTION PASSED BY THE 3RD RESPONDENT DTD. 24/06/2000.**

EXT.P9: **COPY OF THE LETTER DTD. 22/08/2005 ISSUED BY THE PRESIDENT OF THAVINHAL GRAMA PANCHAYATH.**

EXT.P10: **COPY OF AN AFFIDAVIT SWORN BY THE EX – VICE PRESIDENT OF THAVINHAL GRAMA PANCHAYATH.**

/TRUE COPY/

Kss

ANTONY DOMINIC, J.

O.P NO. 38194 OF 2001

Dated this the 21th day of February, 2007

J U D G M E N T

Petitioners claim to have been engaged as Tractor drivers by the 3rd respondent Panchayat. According to them, for the period when they were engaged, they have not been paid wages. It is also stated that the Panchayat had passed a resolution, resolving to pay their wages, but however, the same has not been implemented. It is in this background that this writ petition was filed seeking a direction to the respondents to release the amounts that are due to the petitioners for the work which is stated to have done by them.

2. A counter affidavit is filed by the Secretary of the 3rd respondent Panchayat stating that he had perused the entire records maintained by the Panchayat and there is absolutely no material to show that the petitioners were engaged by the Panchayat at any point of time. He proceeds to say that, if the

petitioners produce documents to show that any amount is due to them from the Panchayat, the same will be disbursed to them after obtaining permission from the 2nd respondent, the Deputy Director of Panchayat.

3. Along with the I.A 2735 of 2007, the petitioners have now produced two documents before this Court. One is a letter dated 22/8/05 from Smt.Thankamma Yesudas, President of the 3rd respondent Panchayat stating that the petitioners were employed in the tractor owned by the Panchayat, bearing No.KL-12A 1172 and that she learns that amounts that are due to the petitioners still remains unpaid. She also states that in a Panchayat meeting held on 24/6/2000, the Panchayat had passed resolution No.106/2000 authorising the Secretary to release the arrears of wages that are due to the petitioners. The second document produced by the petitioners is an affidavit of Sri.K.Annan, former Vice President of the Panchayat. He also testifies that the petitioners were appointed by the Panchayat on

daily wages as drivers of the tractor owned by it and about the meeting held on 24/6/2000 and the resolution No.106/2000 passed in the said meeting. According to him, there was a decision to release the wage arrears to the daily wage drivers, like the petitioners.

4. The only impediment pointed out by the Secretary of the 3rd respondent Panchayat for considering the claim of the petitioners was the absence of documents. The petitioners have filed additional documents referred to above which also refers to the decision said to have been taken by the Panchayat on 24/6/2000 as resolution No.106/2000. Now that the petitioners have disclosed about the decision so taken by the Panchayat, the Secretary can certainly verify the records and find out whether a decision, as stated above, has in effect been taken. If such a decision has been taken, there should not be any further impediment in its implementation.

5. In the above view of the matter, I dispose of this writ

petition directing the 3rd respondent to verify whether a decision has been taken by the Panchayat in their meeting on 24/6/2000 as resolution No.106/2000 resolving to release the dues of the petitioners. If on such verification, such a decision is found to have been taken, the Secretary shall take further steps in accordance with rules for the release of the amounts if any, that are due to the petitioners. This exercise shall be completed within two months from the date of receipt of a copy of this judgment.

Writ petition is disposed of with the above observations. No costs.

ANTONY DOMINIC, JUDGE

Rp